

Global LifeSci Development Corporation

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March 28, 2023

VIA Email Only

Council President Evan Glass
Council Vice President Andrew Friedson
Councilmembers of Montgomery County Council
Montgomery County Council
100 Maryland Avenue
Rockville, MD 20850

Re: **Bills 15-23 & 16-23 - March 28, 2023 Public Hearing - Items Nos. 19, 20, 26 & 27 (Anti-Rent Gouging Protections and HOME Act Proposals)**

Dear Council President Glass, Council Vice President Friedson, and Members of the County Council:

BOTTOM LINE EXECUTIVE SUMMARY FIRST

With respect to the two alternative bills relating to anti-rent gouging and rent stabilization (Bills 15-23 and 16-23), and on behalf of Global LifeSci Development Corporation (“GLDC”), the undersigned *strongly urges the County Council to:*

- (1) **promptly establish a 2-Year Blue-Ribbon Commission**¹ to: (a) study best practices, (b) study well-intended, but flawed or otherwise failing programs, (c) explore perhaps never-before-imagined innovative affordable living solutions (preferably to include opportunities for generational wealth-building by residents of low or moderate means), and (c) present a report to the County Council and the County Executive (within 30 months after the Commission’s formation) outlining the Commission’s recommendations to achieve the most strategic, effective, efficient, socially-responsible and sustainable public policies to advance affordable living opportunities in Montgomery County; **and**
- (2) **promptly enact a 3-Year Temporary (sunsetting) Legislation** --- pending the issuance and consideration of the proposed 2-Year Blue-Ribbon Commission’s report --- to prevent unreasonable rent gouging, while encouraging greater production of affordable living residences in Montgomery County (offering the at-risk, private sector suppliers of rental properties a reasonable rate of return on those at-risk investments).

¹ GLDC respectfully suggests that such a Blue Ribbon Commission should be fully represented by key stakeholders of fair and affordable living conditions, including (but not necessarily limited to): (a) seniors, families, and young renters of low and moderate means; (b) advocates for affordable living conditions to serve residents of low and moderate means; (c) developers, builders, and property managers of rental properties; (d) banks, lenders, and other capital sources to finance rental properties; (e) foundations, non-profits, and charitable organizations, whose mission is focused on increasing affordable living options; and (e) governmental and quasi-governmental agencies (perhaps best populated by retired governmental officials with special expertise) dedicated to providing affordable living options for residents of low and moderate means.

Obviously, there is no one empirically correct “recipe” (or set of ingredients) for such a proposed 3-year temporary (sunsetting) legislation. Nevertheless, for at least a dozen or more reasons --- which such a Blue-Ribbon Commission would certainly be able to describe in greater detail --- a fair and reasonable temporary (3-year sunsetting) legislation might provide, subject to exceptions (substantially similar to the exceptions provided in Bills 15-23 and 16-23):

... the annual rent increase over the next 3 years shall not exceed (on a rolling average basis over the 3 years) the **lower of:**

(a) **7.25% plus** the annual Consumer Price Index – Urban Centers (“**CPI-U**”),

Or

(b) **9.75%.**

By the time this 3-year temporary legislation would sunset, the proposed Blue-Ribbon Commission should be able to issue a report of recommendations for the County Council and County Executive to consider, then propose appropriate legislation, conduct necessary public outreach and hearings, and then enact longer-lasting and much more strategic, effective, efficient, socially-responsible, and sustainable affordable living solutions (preferably to include innovative opportunities for generational wealth-building by residents of low or moderate means).

JUSTIFICATION / FURTHER DISCUSSION OF SUGGESTIONS

First, GLDC respectfully suggests that our collective starting point should be where there is likely nearly unanimous agreement; namely, that Montgomery County has had, for decades, an affordable living option crisis due to its insufficient inventory of affordable residential options for a very meaningful percentage of the County’s hard-working, responsible, and well-deserving residents of low and moderate means. Moreover, the unprecedented covid-19 pandemic exacerbated this crisis far beyond the unacceptable challenges the County experienced over the past decades.

We thus likely have near unanimity that we collectively need to find real, lasting solutions.

Second, after reading Councilmember Jawando’s extraordinarily moving and inspiring book, *My Seven Black Fathers*, I have a deeper admiration, respect, and greater appreciation for Councilmember Jawando’s passion to find real and lasting affordable living solutions. I am a product of my parents, who never --- never --- owned a home in all their lives. They were renters all their life, during which time I was born and raised in Montgomery County (and a very proud product of Montgomery County’s public school system, K-12!). When my father passed away over 25 years ago, my parents had no home equity no any other assets whatsoever to provide for my surviving mother. I have had to (and continue to) fully support financially my mother for these past 25+ years. This experience is among the reasons I too am passionate about exploring and trying to discover innovative, lasting, and potentially generational wealth-building affordable opportunities for present renters of low or modest means.

Third, while the proposed HOME Act legislation is extremely well-intentioned, as I am certain my proposed Blue-Ribbon Commission would prove conclusively, the unintended (or at least underappreciated) adverse consequences of **the HOME Act is most likely going to HURT THE MOST THE VERY POPULATION that Act is intended to serve.**

The reason for the potential harm to the most vulnerable population can be summed up in one word: MATH².

There are a dozen or more reasons why the HOME Act is not the prudent way to achieve the near unanimously agreed upon goal of mitigating the County crisis of affordable living options; and, indeed, the HOME Act would likely be completely counter to those objectives.

As this time is merely the Council's introduction of the relevant Bills (15-23 and 16-23), and deeper analyses and discussion will be considered in June --- I will simply note a few of the most fundamentally flawed "math" problems contained in the proposed HOME Act:

1. A thorough study of the "math" will likely show that high-income rental properties (e.g., where rent might be \$4,000/month or more) can better absorb a rent restriction --- and still maintain those properties for the tenants --- than can a moderate or lower income rental property (e.g., where rent might be \$1,200/month or less). Please keep in mind that a \$4,000/mo. rental cap of 3% = \$120/month. BUT notice that the \$1,200/mo. rental cap of 3% = \$36/month. While that \$36/month increase (compared to the \$120/month increase in the high-income area) might be the desired popular result for those who want to keep rental rates down, notice the perpetuation (and exacerbation) of the wealth disparities -- the higher-income property has THREE TIMES the amount of added revenue to better maintain the property (and for the owner to profit more) than the lower-income property. It does not take any imagination to see who will suffer the most --- the residents in the lower-income rental communities --- because (1) about the only costs a landlord can control are maintenance and repairs (certainly cannot control 30%+ increases in insurance premiums, spikes in utility payments, real estate taxes, etc.); and (2) lenders, capital investors, and landlords have little to no incentive to take the risks to invest in lower income areas of the County, when they can invest much more elsewhere, including well outside the County).
2. It was remarkably surprising that Professor Michael Bodaken (during his advocacy for the HOME Act at the March 13, 2023 public meeting) would argue that any mortgages on rental properties were irrelevant --- and thus the HOME Act would only consider NOI (net operating income) --- because, Professor Bodaken suggested, mortgages can be fixed for the long-term, such as 30 years. Among the numerous and fatal flaws in that assertion, Professor Bodaken completely fails to distinguish between the *microeconomic* circumstance of a single hypothetical mortgagee who just took out a 30-year mortgage this year versus the real life macroeconomic circumstances of *all* mortgagees of *all* rental properties throughout the County (which are the truly affected parties of County legislation). How many hundreds of mortgages (among all the mortgages of all the rental properties in the County) are going to experience a balloon payment this year --- perhaps having the 30-year amortizing, 10-year balloon loan originated 9 years ago --- and thus need to be refinanced this year? How many hundreds will balloon and need to be refinanced next year? The year after that, and so on, EVERY year? What happens when all those mortgages then have a one-year jump of 30% or 40% or more on account of a major increase in interest rates? Professor Bodaken's math is fundamentally flawed and would likely jeopardize a landlord's ability to secure financing for either capital improvements or needed refinancing. Perhaps refinancing could be done in the wealthiest part of the County; but not so much in the lower and moderate income areas of the County. The

² After reading Councilmember Jawando's book, I also learned that math is Councilmember's Jawando's favorite subject! I thus remain optimistic that, with the expert analysis and advice of a proposed Blue-Ribbon Commission, the "math" will be the honest guide to building the broadest of consensus for real and lasting affordable living solutions.

very foreseeable consequences would be more investment in the wealthiest areas of the County and more disinvestment in the lower income areas of the County. It would result in further differentiation between what is already considered “two” very different Montgomery Counties (and growing more to maybe even “three” different Montgomery Counties). Certainly one of those Montgomery Counties would suffer more with Professor Bodaken’s theory; and that would be the very population these policies are intended to help.

3. Perhaps the worst idea of all is the enormously cumbersome, administratively wasteful, and completely uncertain (and thus unfinanceable) process for a landlord to make an appeal for relief from the rent restrictions for extraordinary expenses, such as (for example) replacing hot water/heating systems that break down. What? When an entire building’s hot water and heat systems break down, does the County want a process where the landlord tells the tenants that they may need to wait a few months to go through an appeal process before the hot water and heat systems can be repaired? Or would the County prefer the landlord try to restore hot water and heat to the tenants as swiftly as possible? And how much economic waste (and time) will be spent on salaries and administration of such an appeal process, when those dollars (and time) could immediately address the conditions?

These are just three examples of a dozen or more reasons why some more time --- and some real expert “Blue-Ribbon Commission” analyses --- are necessary to think through all the foreseeable consequences (and the potentially unintended consequences) before these potential policies get implemented. Please know that during this time of further analysis by a suggested Blue-Ribbon Commission, the genuine issue and problem of absentee landlords and/or neglectful landlords, who let their rental properties fall into inexcusable disrepair, must also be addressed, disincentivized, and penalized as part of a comprehensive plan to improve living conditions and increase the inventory of affordable and healthy living conditions.

For at least these and many other reasons (which I would be happy to explain in greater detail), I respectfully urge the County Council to:

- (1) **promptly establish and appoint a 2-Year Blue-Ribbon Commission** to study and recommend real, lasting affordable living solutions;
- (2) **enact temporary (3-year sunset) legislation** that includes (subject to exceptions as described above) that the amount of annual rent increase over the next 3 years shall not exceed (on a rolling average basis over the next 3 years) the **lower of: (a) 7.25% plus the CPI-U, or (b) 9.75%**.

Respectfully Submitted,

Jonathan M. Genn

Jonathan M. Genn, Esquire
Executive Vice President and General Counsel